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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,355	05/01/2001	Tetsuo Nakamura	Q64193	2615

7590

02/14/2003

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EXAMINER

CHEA, THORL

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 02/14/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application N .

Applicant(s)

09/845,355

NAKAMURA ET AL.

Examiner

Art Unit

Thorl Chea

1752

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: None.

Claim(s) objected to: none.

Claim(s) rejected: 1-11.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Thorl Chea
Primary Examiner
Art Unit: 1752

Continuation of 2. NOTE: First, adding of the language "color" in association with "silver halide photographic material" change the scope of the claims that require further consideration and/or search; second, claims 12-20 are related to the claiming of a "silver halide photographic emulsion" raises the issue under 35 USC 112, second paragraph because of lacking antecedent basis thereof. .

Continuation of 5. does NOT place the application in condition for allowance because: The Declaration under 37 CFR 1.132 filed May 29, 2002 is irrelevant to the silver halide color photothermographic material exemplified in Miyamoto et al, especially the material in Example 2, columns 36-39. The materials disclosed in the Declaration is made according to Sample No 201 of the present specification wherein different combination of dyes has been compared. However, the invention is related to a silver halide color photographic material encompasses the scope taught in Miyamoto wherein the good results are obtained by the use of the selenium compound and the spectral sensitizing dye. The photographic properties of the silver halide photographic material are not based solely on the spectrally sensitize alone, but with other addenda such as silver halide grain, chemical sensitizer, antifoggant etc... Therefore, in the absence of using the material of the prior art as a base to compare the combination of the dyes claimed in the present invention, it is the Examiner's position that the claimed invention is still prima facie obvious over the applied prior art of record..